

October 7, 2013

VIA ECF

Hon. Therese Wiley Dancks, U.S. Magistrate Judge
United States District Court, Northern District of New York
Federal Building and U.S. Courthouse
P.O. Box 7346
Syracuse, NY 13261-7346

Re: Jeffrey D. Reynolds v. Xerox Education Services, Inc. f/k/a ACS Education Services, Inc. and Wells Fargo Bank, N.A.
Docket No. 13-cv-01223-LEK-TWD

Dear Judge Dancks:

This firm represents defendant Wells Fargo Bank, N.A. ("Wells Fargo") in the above-referenced action.

Plaintiff Jeffrey D. Reynolds ("Plaintiff") commenced this action by filing the Complaint in the United States District Court for the Southern District of New York, on February 13, 2013. In the Complaint, Plaintiff asserts causes of action against Wells Fargo, and co-defendant Xerox Education Services, Inc. f/k/a ACS Education Services, Inc. ("Xerox") (collectively, "Defendants"), for breach of contract and unjust enrichment, stemming from the alleged misapplication of payments made on Plaintiff's student loan, which is owned by Wells Fargo and serviced by Xerox.

On June 14, 2013, Defendants moved to dismiss the Complaint under the doctrine of *forum non conveniens*, or in the alternative, to transfer the action to the more convenient forum, and to dismiss the unjust enrichment cause of action. Following oral argument, by order dated September 19, 2013, the Honorable Harold Baer granted Defendants' motion to the extent that this action was transferred to the Northern District of New York, denied Defendants' motion to dismiss under the doctrine of *forum non conveniens*, and declined to address the merits of the unjust enrichment cause of action.

Today, Robin Muir, from this office, contacted Your Honor's law clerk, Renata Hohl, to confirm the due date to answer to the Complaint, or move, in light of the transfer to this Court. We were advised that once Plaintiff appears before this Court, Wells Fargo shall be permitted to re-file its motion to dismiss with respect to the unjust enrichment cause of action. To date, Plaintiff has not appeared before this Court, and his counsel's deadline to do so pursuant to the Court's instruction [Document No. 29] is October 31, 2013. At the Court's suggestion, this letter serves to memorialize today's phone call.

Should the Court have any questions, we remain available.

Respectfully,



Allison J. Schoenthal

Partner

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